

Minutes of the
Third Meeting of the Underground Pipeline Task Force
Matthew Training Center
523 East Capitol
Pierre, South Dakota

October 23, 2008
9:00 a.m. CDT

CALL MEETING TO ORDER: Chairman Gary Hanson called the meeting to order. A quorum was present.

BOARD MEMBERS PRESENT: Gary Hanson, Troy Styer, Daniel Holli, Dennis Davis, Gordon Woods, Mark Anderson, and Pete Bullene.

OTHERS PRESENT: See attached attendance sheet.

APPROVAL OF MINUTES: Gordon Woods motioned for an approval of the minutes, second by Pete Bullene. Motion carried.

INFORMATIONAL PRESENTATIONS

Additional Information on the South Dakota Regulated Substance Response Fund

Brian Walsh, Hydrology Specialist with DENR, provided the Task Force with additional information on the Regulated Substance Response Fund. Specifically, Mr. Walsh answered two questions asked by Task Force members during the September 22, 2008 meeting. First, Mr. Walsh explained the \$567,072 transfer into the fund in fiscal year 2000 was money returned to the fund because of the removal of a fund CAP that had been in place for the previous five years. Second, Mr. Walsh provided the Task Force information on the amount and type of fines paid into the Regulated Substance Response Fund.

South Dakota Mineral Severance Tax

Brian Walsh, Hydrology Specialist with DENR, provided the Task Force with general information about the South Dakota Mineral Severance Tax. He discussed how revenue is allocated, the amount of revenue collected FY2000 to FY2008 and what drives the amount of the tax collected.

Additional Information on Pipeline Incident Cost Data

Brian Walsh, Hydrology Specialist with DENR, presented additional information to the Task Force on pipeline incident cost data. Specifically, at the request of the Task Force, Mr. Walsh presented a breakdown of pipeline incidents in South Dakota and Minnesota by material released.

Review of South Dakota Petroleum Spills by Source

Brian Walsh, Hydrology Specialist with DENR, presented the Task Force with the number of South Dakota petroleum spills by source. Specifically, at the request of the Task Force, Mr.

Walsh compared the number of transportation petroleum spills to the number of pipeline petroleum spills.

Review of Regulated Response Fund and DENR Spill Response Procedures

Per Chairman Hanson's request, Kim McIntosh, DENR, reviewed DENR's spill response procedures and the use of the Regulated Substance Response Fund. Specifically, Ms. McIntosh informed the task force the state's Regulated Substance Response Fund and the federal Oil Spill Liability Trust Fund could be used simultaneously.

TASK FORCE DISCUSSION

Task Force member discussion focused on the development and approval of final recommendations to be included in the Task Force report to the Governor.

Recommendations Considered for Inclusion in the Final Task Force

The first recommendation considered by the Task Force concerned South Dakota One Call creating a high profile designation for facilities such as hazardous materials pipelines. Once designated as high profile, additional steps would need to be taken before One Call would clear an excavation ticket near one of the high profile facilities. Task Force members were in agreement with this recommendation however, they did not feel the high profile designation should be limited to hazardous material pipelines. In addition, the Task Force did not want to dictate in their recommendation what additional steps Once Call would require excavators and facility operators to undertake. Based on the Task Force's discussion members made and approved the following recommendation for inclusion in the final report.

The South Dakota Underground Pipeline Task Force supports South Dakota One Call in the development of a high profile database identifying high profile underground facilities.

The second recommendation considered by the Task Force concerned South Dakota One Call mandatory damage reporting. Discussion on this topic included what enforcement would be taken if excavators did not report damage or failed to contact One Call prior to excavation. Task Force members agreed that issue was for One Call to manage. Based on the Task Force's discussion members made and approved the following recommendation for inclusion in the final report.

The Task Force recommends South Dakota One Call require mandatory damage reporting.

The third recommendation considered by the Task Force concerned making mandatory for counties or municipalities adoption of wellhead protection ordinances for regulated public drinking water systems. Although Task Force members agreed in general with this recommendation, there was discussion on whether it was appropriate for the Task Force to recommend implementation be mandatory. Task Force members thought this might be viewed as requiring an unfunded mandate or may place unachievable requirements on some counties. Based on the Task Force's discussion members made and approved the following recommendation for inclusion in the final report.

The Task Force recommends municipalities and counties adopt and/or create wellhead protection areas for their public water supply systems.

The fourth recommendation considered by the Task Force concerned the South Dakota Public Utilities Commission attempt to acquire the liquids program for intrastate pipelines from the federal Department of Transportation. Discussion on this issue centered on whether the Task Force should recommend the Commission acquire this program not knowing the necessary staffing needs and budget constraints of the Commission. Based on the Task Force's discussion members made and approved (via a 4-3 vote) the following recommendation for inclusion in the final report.

The Task Force recommends the South Dakota Public Utilities Commission examine acquiring the liquids program for intrastate pipelines from the federal Department of Transportation.

The fifth recommendation considered by the Task Force concerned having the DENR develop guidance on how to encase plastic waterlines that cross under other pipelines. Discussion on this issue include whether this task was within DENR's scope as a regulatory agency. Also discussed was what if the guidance became a standard and existing plastic waterlines crossing hazardous material pipelines required encasement or retrofitting to meet the standard could this become a burden on the water systems in South Dakota. Based on the Task Force's discussion members did not support this recommendation for inclusion in the final report.

The sixth recommendation considered by the Task Force concerned having the DENR become involved with Dr. Delvin DeBoer, Director of the Water & Environmental Engineering Research Center at SDSU, in his research on the impact of petroleum products on plastic waterlines. Discussion on this issue included what was meant by the word involved. Task Force members felt it was unlikely DENR could fund the study. In addition, Task Force members asked DENR staff if Dr. DeBoer had contacted DENR and requested their involvement. DENR staff said he had not and Task Force members questioned if they should try to force cooperation that did not seem to be developing on its own. Based on the Task Force's discussion members made and approved the following recommendation for inclusion in the final report.

The Task Force recommends DENR explore its ability to assist Dr. DeBoer with South Dakota State University in his research on the impact of petroleum products on plastic waterlines.

The seventh recommendation considered by the Task Force concerned having the South Dakota Department of Revenue and Regulation, Division of Insurance review the availability of pollution liability insurance in South Dakota especially for water and waste water systems. There was only limited discussion on this issue and the Task Force members were in support of the recommendation. Based on the Task Force's discussion members made and approved the following recommendation for inclusion in the final report.

The Task Force recommends the South Dakota Department of Revenue, Division of Insurance review the availability of pollution liability insurance for public and private entities in South Dakota especially for water and waste water systems.

The eighth recommendation considered by the Task Force concerned the preservation of the South Dakota Regulated Substance Response Fund for uses of the fund as outlined in SDCL 34A-12. During the first three task force meetings, there was considerable discussion about who would pay for a cleanup if the responsible party was unable or refused to do so. Task Force members were presented information on the Regulated Substance Response Fund, the Oil Spill Liability Trust Fund and the legality of imposing a fee on interstate pipelines. Based on this information the Task Force did not recommend any fees or fund increases do to the legality of doing so and the coverage already provided by the Regulated Substance Response Fund and the Oil Liability Trust Fund. However, the Task Force thought it was important to preserve the Regulated Substance Response Fund for its intended use. Task Force members agreed to include a recommendation on this issue in the final report and asked DENR staff to develop the specifics of the recommendation.

Direction to DENR Staff

The task force directed DENR staff schedule the final task for meeting and finalize the DRAFT Task Force findings report for review and approval by the Task Force at their final meeting.

MEETING ADJOURNED – 12:23 p.m.

October 23, 2008

Sign-in Sheet

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